Supreme Court, U.S.
FILED
07-370 SEP 17 2007
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No. (1)

In The

Supreme Court of the United States

NAZMUL HAQUE TALUKDER,

Petitioner,

vs.

U.S. ATTORNEY GENERAL,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief pursuant to INA § 241(b)(3), re Withholding of Removal, was against the Substantial Weight of the Evidence and contrary to law in that Petitioner met his statutory burden of proof and the requirements of *INS v. Stevic*, 467 U.S. 470 (1984), as well as establishing that the Court misapplied the law and abused discretion by improperly requiring that Petitioner prove that he and every member of the protected group based on Political Opinion show that they would be Singled Out for persecution on account of Political Opinion, ignoring the long and terrible history of such persecution in Bangladesh as well as the voluminous objective documentary evidence in the record, violating Petitioner's rights to a fair hearing when claiming relief pursuant to a "Pattern and Practice" of persecution on account of political opinion against those persons similarly situated, pursuant to 8 C.F.R. §§ 208.13(b)(2)(i) and 205.16(b)(3). *See also Makonnen v. INS*, 44 F.3d 1378 (8th Cir. 1995) and *Avetova-Elisseva v. INS*, 213 F.3d 1192 (9th Cir. 2000) and *Matter of S-M-J-*, 21 I.&N. Dec. 724 (BIA 1997).

2. Whether the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief pursuant to INA § 241(b)(3) re Withholding of Removal, was against the Substantial Weight of the Evidence, contrary to law and an abuse of discretion in that the Court found Petitioner not credible on the basis of minor discrepancies in the record not relevant to the heart of Petitioner's claim, demonstrating an impermissible bias

QUESTIONS PRESENTED – Continued

and a predisposition to discredit Petitioner not supported by the record and showing improper speculation and conjecture and misapplying the law, the record not establishing any contradiction or impeachment of Petitioner, Petitioner testifying consistently, in detail and with facts supported by the record. *See Plateros-Cortez v. INS*, 804 F.2d 1127 (9th Cir. 1986), *Guo v. Ashcroft*, 361 F.3d 1194, 1200-02 (9th Cir. 2004) and *Abovian v. INS*, 219 F.3d 972, 978-80 (9th Cir. 2000).

3. Whether, in the alternative, the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief under the Convention Against Torture pursuant to 8 U.S.C. § 2241, 8 C.F.R. §§ 208.16-208.18 was against the Substantial Weight of the Evidence and contrary to law in that Petitioner met his statutory burden of proof in showing that it is more likely than not that he would be "tortured" on account of his Political Opinion in Bangladesh by the BNP Coalition Government or its agents directly or with the knowledge and acquiescence of the current BNP Coalition Government, the Court misapplying the law and abusing discretion. *See Yi-Tu Lian v. Ashcroft*, 379 F.3d 457 (7th Cir. 2004); *Mostafa v. Ashcroft*, 395 F.3d 622 (6th Cir. 2005) and *Zubeda v. Ashcroft*, 333 F.3d 463, 477-78 (3rd Cir. 2003).

4. Whether the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief under the Convention Against Torture pursuant to 8 U.S.C. § 2242, 8 C.F.R. § 208.16, 206.18 was against the Substantial Weight of the Evidence, contrary to law and an abuse of discretion in that the Court ignored the misapplication of the law by the Immigration Judge

QUESTIONS PRESENTED – Continued

(hereinafter I.J.) and BIA below in not requiring a separate analysis of credibility issues under the Convention Against Torture (hereinafter "CAT" claim), in that the credibility determinations for Asylum under INA § 208(a) and Withholding of Removal pursuant to INA § 241(b)(3) are not dispositive of a CAT claim because the latter is objective while the former applies to the applicant's subjective state of mind. *Camara v. Ashcroft*, 378 F.3d 361, 371-72 (4th Cir. 2004); *Singh v. Ashcroft*, 398 F.3d 396, 404-06 (6th Cir. 2005).

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The opinion of the United States Court of Appeals for the Eleventh Circuit appears at Appendix A to the petition and is unpublished.

STATEMENT OF JURISDICTION

The date on which the United States Court of Appeals decided my case was June 19, 2007.

This court's jurisdiction is conferred by 28 U.S.C. § 1254(1), 28 U.S.C. § 2350 and INA § 242, 8 U.S.C. § 1252 and jurisdiction below at the BIA was conferred by 8 C.F.R. § 3.1(b) re the Appeal from the Decision of the Immigration Judge Denying Appellant's Application for Relief from Removal/Deportation pursuant to INA § 237(a)(1)(c)(i), 8 U.S.C. § 1227, et seq. – in United States in violation of law, remaining longer than permitted, Appellant filing for Asylum under INA § 208(a), Withholding or Removal under INA § 241(b)(3), 8 U.S.C. §§ 1158 and 1251(b)(3), respectively, and/or Relief under the Convention Against Torture, 8 U.S.C. § 2242, 8 C.F.R. §§ 208.16-208.18. Venue is proper in this Court because the Proceedings before the Immigration Judge were completed in Miami, Florida which is within this circuit. *See* INA § 242(b)(2), (b)(9), 8 U.S.C. § 1252(b), (2), (b)(9). *See Lopez-Riuz v. Ashcroft*, 298 F.3d 886 (9th Cir. 2002).

STATUTORY PROVISIONS INVOLVED

INA § 241(b)(3) and 8 U.S.C. § 2242 re 8 C.F.R. §§ 208.16-208.18.

STATEMENT OF THE CASE

Petitioner, a 42-year-old male and native and citizen of Bangladesh, left his country on a B-2 Visitor Visa on 02-07-2002, arriving in Miami, Florida on 02-08-2002. On or about 03-31-2003, Petitioner was arrested by DHS (Department of Homeland Security); Posted $7,500 Bond and was Released pending a hearing and determination before the Immigration Court to determine whether he may remain in the United States, as well as being personally served a Notice To Appear on 03-31-2003.

Petitioner first appeared before the Miami Immigration Court on 03-11-2005, filing the Form I-589, application for relief under INA § 208(a) re Asylum pursuant to the two (2) exceptions for late-filing: (a) extraordinary circumstances and (b) changed country conditions; relief pursuant to INA § 241(b)(3) re Withholding of Removal and relief under the Convention Against Torture re 8 C.F.R. §§ 208.16-208.18, and 1208.16-.18. C.A.R. 172-182.

Petitioner also filed a Motion To Withdraw I-130 Petition For Alien Relative and To Supplement the Record on 06-01-2005 before the Miami Immigration Court, C.A.R. 142-152, and also O.D.I.J. at C.A.R. 049-050.

The Individual Hearing in this matter was held before the Miami Immigration Court on 06-14-2005, on the issues of Withholding of Removal under INA § 241(b)(3) and relief under the Convention Against Torture pursuant to

8 C.F.R. §§ 208.16-208.18 and 1208.16-.18. The Decision of the Miami Immigration Judge Denying all requested relief by Petitioner was issued orally in Court on 06-14-2005. Petitioner timely filed Form EOIR – 26, Notice of Appeal from a Decision of an Immigration Judge on 07-13-2005, the same being file-stamped by the BIA Board of Immigration Appeals (hereinafter BIA) on 07-14-2005. Form EOIR – 27, Notice Of Entry Of Appearance As Attorney Or Representative was also filed by Attorney Judd James Before The Board of Immigration Appeals, Executive Office For Immigration Review, with a copy of the Piling Receipt For Appeal from the BIA dated 07-15-2005 re the Receipt for the Appeal filed 07-14-2005, Case No. A96-008-280.

On 06-28-2006, Petitioner's "Petitioner's Appeal Brief" was timely filed with the BIA. On 08-29-2006 the BIA issued a Decision Denying all of Petitioner's requested relief, adopting and affirming the Decision of the Immigration Judge. On 09-27-2006 Petitioner timely filed a Petition for Review on Appeal from the Decision of the Board of Immigration Appeals. On 06-19-2007 the U.S. Court of Appeals for the Eleventh Circuit issued a Decision in Case No. 06-15184, *Nazmul Haque Talukder, Petitioner v. U.S. Attorney General,* per Judges BIRCH, MARCUS and KRAVITCH, Denying all of Petitioner's relief.

STATEMENT OF THE FACTS

Petitioner was born into a native Bangladesh family in Netrakona, Bangladesh on 03-05-1964. His father was a teacher and his mother a housewife. Petitioner's brother, father and uncle were all affiliated with the Awami League

Political Party and in 1979 to 1980, while a 10th Grade student, he became interested in the political process, becoming a member of the Awami League and reading books on the Awami League. Petitioner was studying history and was in an honors class, with his goal being to become a member of parliament. Eventually, after about one year, Petitioner was selected as one of five Vice-Presidents of the Student Branch of the Awami League being selected by the Awami Chatia League. Petitioner testified that he assumed increased duties that included giving speeches, organizing meetings with students and their families, recruiting and visiting villages. Although his position in the Awami League (hereinafter AL) was not a paid position, he and others like him used to collect money from students and members. Petitioner even achieved the position of Acting President of the Awami League Student Branch for three (3) months beginning in October, 1984. Until October 1, 2001 when the BNP Coalition Government (consisting of two (2) Islamic Extremists parties) was elected. Petitioner was not persecuted on account of his Political Opinion and/or Religion. Following the BNP Coalition Government's election to power in October, 2001 and during and after the elections (*see* a copy of the U.S. State Department Country Reports on Human Rights Practices – 2004, Released by the Bureau of Democracy, Human Rights and Labor, February 28, 2005), the BNP Coalition Government frequently used the police for political purposes with the police and RAB (Rapid Action Battalion) personnel routinely employing physical and psychological torture during arrests and interrogations.

After graduation Petitioner lived in Dhaka, Bangladesh and made a living selling computer parts. During this time, after the opposition BNP Party took power, Petitioner testified how he learned of other Awami League members being tortured and killed by BNP forces. Petitioner testified that BNP leaders and others "wanted to kill me also."

Petitioner testified how the BNP Coalition members came to his house, and later his business, threatening him and his wife, demanding 50 Rupees from both he and his wife or they would kill him. This happened on or about 11-15-2001 and shortly thereafter. Petitioner testified that six (6) or seven (7) BNP persons came to his house and store and that he knew one of them, Salaudd Lalto. Petitioner said they came to his house about 8:00 to 8:15 p.m. and that they wanted money or they would kill him.

Afterwards, the BNP Coalition Party members harassed and threatened Petitioner, his wife, and even his parents. The police in Bangladesh would not take his case despite his wife asking them.

Petitioner testified about a friend and fellow Awami League Party Member who was similarly situated and subject to a pattern and practice of persecution who had to flee Bangladesh for the same reasons he did – Mr. Sanien Ousman, a member of Parliament in Bangladesh and that he knew Mr. Ousman had gone to Canada. Further, Petitioner testified that there was no safe place to go in Bangladesh.

Petitioner testified to the ongoing politically motivated killings of Awami League Members, stating his own well-founded fear of future persecution on account of his political

opinion if he is forced to return to Bangladesh. And his parents even told him not to return to Bangladesh.

Petitioner testified that he had voted while in Bangladesh he believed the BNP Coalition Government "is really a kind of terrorist type of government" and that was why he decided to leave his country and came here.

REASONS FOR GRANTING THE PETITION

ISSUE 1

Whether the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief pursuant to INA § 241(b)(3), re Withholding of Removal, was against the Substantial Weight of the Evidence and contrary to law in that Petitioner met his statutory burden of proof and the requirements of *INS v. Stevic*, 467 U.S. 470 (1984), as well as establishing that the Court misapplied the law and abused discretion by improperly requiring that Petitioner prove that he and every member of the protected group based on Political Opinion show that they would be Singled Out for persecution on account of Political Opinion, ignoring the long and terrible history of such persecution in Bangladesh as well as the voluminous objective documentary evidence in the record, violating Petitioner's rights to a fair hearing when claiming relief pursuant to a "Pattern and Practice" of persecution on account of political opinion against those persons similarly situated, pursuant to 8 C.F.R. §§ 208.13(b)(2)(i) and 208.16(b)(3). *See also Makonnen v. INS*, 44 F.3d 1378 (8th Cir. 1995) and *Avetova-Elisseva v. INS*, 213

F.3d 1192 (9th Cir. 2000) and *Matter of S-M-J-*, 21 I.&N. Dec. 724 (BIA 1997).

Petitioner claims that it is more likely than not that if he is forced to return to Bangladesh he will be persecuted on account of his political opinion. The Decision of the U.S. Court of Appeals affirming the BIA Decision upholding the Decision of the I.J. is contrary to the substantial weight of the evidence contrary to law and an abuse of discretion as the I.J. completely ignores the U.S. State Department Country Reports and the seventeen (17) other objective documentary reports. The Decision of the I.J. is contrary to *Matter of S-M-J-*, 21 I.&N. Dec. 722 (BIA 1997) because the Board ruled that country condition reports must be produced and the evidence considered in the record because the case cannot be properly decided without them. Further, the Decision of the I.J. by ignoring the U.S. State Department Country Reports, commits another grievous error because of the unique veracity of the Country Reports from the U.S. State Department. The Board in *Matter of V-I-S-*, 21 I.&N. Dec. 792, 798-99 (BIA 1997) stated in relevant part:

> . . . Country condition profiles described by the State Department have been found to be "the most appropriate and perhaps the best resource for information on conditions in foreign nations."

The Decision of the I.J. also ignores the Pattern and Practice relief requested by Petitioner and the facts he testified to establishing himself as part of the protected group based on Political Opinion, something the I.J. does not contest, *See* 8 C.F.R. §§ 208.13(b)(2)(iii)(A)-(B), 1208.13(b)(2)(iii)(A)-(B) where it states that the burden of proof in asylum and withholding of removal cases does *not* require the applicant to be "singled out individually for

persecution" if there is a "pattern or practice" of persecution of people "similarly situated to the applicant". *See also Avetova-Elisseva v. INS,* 213 F.3d 1192 (9th Cir. 2000) where an Armenian in Russia who could not establish past persecution could nevertheless establish a well-founded fear of future persecution based upon her ethnicity in light of the "pattern or practice" of persecution which Russian authorities where unable or unwilling to stop. And *see Makonnen v. INS,* 44 F.3d 1378, 1382-84 (8th Cir. 1995) where the Circuit Court there reversed the BIA where it ignored the regulation re pattern or practice and sought to require all members of the group to show persecution.

In the U.S. State Department Report for 2004 it states in relevant part at page one (1):

> . . . Nearly all abuses went unpunished, and the climate of impunity, reinforced by the 2003 legislation shielding security forces from legal challenge for their actions, remained a serious obstacle to ending the abuse and killings. Violence, often resulting in deaths, was a pervasive element in the country's politics. Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. Press reports of vigilante killings were common . . .

And *see Eduard v. Ashcroft,* 379 F.3d 182, 192 (5th Cir. 2004) where the Court there held that the I.J. erred in requiring Indonesian Christians to prove they were singled out for persecution when evidence indicated a pattern and practice of persecution of Christians.

ISSUE 2

Whether the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief pursuant to INA § 241(b)(3) re Withholding of Removal, was against the Substantial Weight of the Evidence, contrary to law and an abuse of discretion in that the Court found Petitioner not credible on the basis of minor discrepancies in the record not relevant to the heart of Petitioner's claim, demonstrating an impermissible bias and a predisposition to discredit Petitioner not supported by the record and showing improper speculation and conjecture and misapplying the law, the record not establishing any contradiction or impeachment of Petitioner, Petitioner testifying consistently, in detail and with facts supported by the record. *See Platteros-Cortez v. INS*, 804 F.2d 1127 (9th Cir. 1986), *Guo v. Ashcroft*, 361 F.3d 1194, 1200-02 (9th Cir. 2004) and *Abovian v. INS*, 219 F.3d 972, 978-80 (9th Cir. 2000).

The Decision of the U.S. Court of Appeals affirming the Decision of the BIA upholding the Decision of the I.J. ignores the compelling and corroborating objective documentary evidence in the record as well as Petitioner's testimony in his Form I-589 application that states his well-founded fear of future persecution on account of Political Opinion and Religion and that it is more likely than not that such persecution would take place if he was forced to return to Bangladesh. The Decision of the I.J. is contrary to the Substantial Weight of the evidence as well as contrary to law in that the I.J. found Petitioner not credible not on the basis of any real contradictions but only omissions and conjecture. The I.J. tries to have us believe Petitioner was misleading in his testimony about

Travel Authorization while married to his U.S. Citizen second wife with an Adjustment of Status application pending by stating:

> . . . The Respondent was then asked if it was true that his family had told him not to return to Bangladesh to which he testified affirmatively. The Respondent was then asked if he applied for a travel document to return (see Exhibit 7) which the respondent initially denied by stating "no". The Respondent was then confronted with the document and then changed his answer to "yes". (See Oral Decision of the Immigration Judge, hereinafter O.D.I J. at pgs. 11 and 12).

Petitioner stated in his testimony at the Individual Hearing:

> Q. " . . . Do you recognize this document?"
>
> A. "Yes, I recognize it."
>
> Q. "So you did apply to travel to Bangladesh. Is right?"
>
> A. "Actually I did because my father was ill, but I did not go and my father – I was told not to go to Bangladesh."

There was apparent confusion over the August 7, 2002 date of applying for travel authorization. Petitioner is not an immigration lawyer and the subject was changed very quickly by the C.I.S. Attorney. Once Petitioner fully understood what was being discussed, he acknowledged same and the bottom line is that he NEVER RETURNED TO BANGLADESH. An adverse credibility determination based upon speculation conjecture and lack of difficult-to-obtain corroborative documents was *not* supported by

substantial evidence and the Circuit Court reversed the BIA in *Guo v. Ashcroft,* 361 F.3d 1194, 1200-02 (9th Cir. 2004). And *see Abovian v. INS,* 219 F.3d 972, 978-80 (9th Cir. 2000) where the Circuit Court of Appeals reversed the BIA stating that where there is no misrepresentation and no specific and direct evidence that contradicted applicant's testimony there was no basis to determine that Petitioner lacked credibility.

And, the rest of Petitioner's testimony was consistent and detailed as to the heart of his well-founded fear claim, even to the point of specifically naming one of his BNP persecutors. Petitioner also named a similarly situated victim, Mr. Samin Ousman, who left Bangladesh for Canada.

The I.J. focused on the Travel Authorization as an issue that "goes directly to the heart of respondent's claim" (*see* O.D.I.J. at pg. 14) and yet this is simply not true for the reasons set forth above. Respondent never did return to Bangladesh; if he had returned then the I.J. speculation would be fact, rather than a stretch of personal conjecture. Meanwhile, the U.S. State Department Country Reports for 2004 in the record corroborate Respondent's fears and yet the I.J. totally ignores the record! In *Turcios v. INS,* 821 F.2d 1396, 1400-1401 (9th Cir. 1987) the Circuit Court addressed a very similar issue of an allegation that Respondent there had lied to INS about nationality not inconsistent with the asylum claim. The Circuit Court stated in relevant part:

> Minor inconsistencies in the record that do not relate to the basis of an applicant's alleged fear of persecution, go to the heart of the asylum claim, or reveal anything about an asylum

> applicant's fear for his safety are insufficient to support an adverse credibility finding.

And, further, *see Forgue v. US Attorney General,* 401 F.3d 1282, 1287 (11th Cir. 2005) where the Court there, although upholding the denial of asylum under the substantial evidence rule, the court noted that "an adverse credibility determination does not alleviate the I.J.'s duty to consider other evidence produced by an asylum applicant. That is, the I.J. must still consider *all* evidence introduced by the applicant." (emphasis added).

And *see Camara v. Ashcroft,* 378 F.3d 361, 369-71, (4th Cir. 2004) where the Court there upheld the lack of credibility finding but *reversed the denial of asylum/withholding where the I.J. overlooked documentary evidence* that provided a strong evidentiary basis to support the claim. (emphasis added).

ISSUE 3

Whether, in the alternative, the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief under the Convention Against Torture pursuant to 8 U.S.C. § 2241, 8 C.F.R. §§ 208.16-208.18 was against the Substantial Weight of the Evidence and contrary to law in that Petitioner met his statutory burden of proof in showing that it is more likely than not that he would be "tortured" on account of his Political Opinion and Religion in Bangladesh by the BNP Coalition Government or its agents directly or with the knowledge and acquiescence of the current BNP Coalition Government, the Court misapplying the law and abusing discretion. *See Yi-Tu Elan v. Ashcroft,* 379 F.3d 457 (7th Cir.

2004); *Mostafa v. Ashcroft*, 395 F.3d 622 (6th Cir. 2005) and *Zubeda v. Ashcroft*, 333 F.3d 463, 477-78 (3rd Cir. 2003).

In the alternative, Petitioner seeks relief pursuant to the Convention Against Torture under Article 3 of the U.N. Convention Against Torture, from the Decision of the U.S. Court of Appeals for the Eleventh Circuit affirming the Decision of the BIA upholding the Decision of the Immigration Judge. Bangladesh is an Islamic State and there is no separation of church/mosque and state. The BNP Coalition Government now consists of an unprecedented Islamic Extremist Composition that has, as Petitioner put it, "a terrorist type of government." There is rampant political persecution by Government agents as is documented by the U.S. State Department Country Reports. For example the police, the RAB (Rapid Action Battalion) and the BDR (Bangladesh Rifles); the auxiliary organization, Anxar; and the military all act with impunity like the RAB, all use unwarranted lethal force. And at page one (1) of the U.S. State Dept. Country Reports for 2004 it states in relevant part:

> . . . and police and RAB personnel routinely employed physical and psychological torture during arrests and interrogations.

And at page two (2) of the Country Report for 2004 it states:

> . . . Security forces committed numerous politically motivated and extrajudicial killings. The police, the BDR, and the RAB used unwarranted lethal force.

Petitioner asserts that there is not only acquiescence by the Bangladesh Coalition Government but ample state

action in both deed and law that results in, condones or allows torture and killings that are illegal, immoral and without justification.

ISSUE 4

Whether the Decision of the U.S. Court of Appeals for the Eleventh Circuit in Denying Petitioner's claim for Relief under the Convention Against Torture pursuant to 8 U.S.C. § 2242, 8 C.F.R. § 208.16-206.18 was against the Substantial Weight of the Evidence, contrary to law and an abuse of discretion in that the Court ignored the misapplication of the law by the I.J. and BIA below in not requiring a separate analysis of credibility issues under the Convention Against Torture (hereinafter "C.A.T." claim), in that the credibility determinations for Withholding of Removal pursuant to INA § 241(b)(3) are not dispositive of a C.A.T. claim because the latter is objective while the former applies to the applicant's subjective state of mind. *Camara v. Ashcroft*, 378 F.3d 361, 371-72 (4th Cir. 2004); *Singh v. Ashcroft*, 398 F.3d 396, 404-06 (6th Cir. 2005).

The Decision of the 11th Circuit Court of Appeals affirming and adopting the Decision of the BIA upholding the Decision of the I.J. below is contrary to law, an abuse of discretion as well as being contrary to the Substantial Weight of the Evidence for the following reasons.

First, the Decision of the I.J. did not make separate findings analyzing the C.A.T. (Convention Against Torture) issues, including credibility issues, contrary to *Singh v. Ashcroft,* 398 F.3d 396, 404-06 (6th Cir. 2005) where the Court there reversed the I.J. for failure to separately

analyze credibility issues for C.A.T. after making a generalized negative credibility finding. And *see Camara v. Ashcroft,* 378 F.3d 361, 371-72 (4th Cir. 2004) where the Court there followed *Ramsameachire v. Ashcroft,* 357 F.3d 169, 184-86 (2nd Cir. 2004), and other circuits and findings that credibility determinations as to asylum/withholding claims are not dispositive of a C.A.T. claim because the latter is objective while the former applies to the applicant's state of mind.

The Decision of the I.J. makes only a brief reference to C.A.T. Relief (*see* the Certified Administrative Record, hereinafter C.A.R. at 060-061) which is woefully inadequate as to the findings of fact and law the above cases require.

And, secondly, the Decision of the I.J. is inadequate and contrary to law – *see* 8 C.F.R. §§ 208.16(c)(3), 1208.16(c)(3), that requires the I.J. to consider *all* evidence in assessing a claim of whether it is more likely than not that a C.A.T. Applicant may be tortured in the future, including: (1) evidence of past torture; (2) evidence that the applicant could relocate to another part of the country where s/he would not likely be tortured; (3) evidence of gross, flagrant, or mass violations of human rights within the country; and (4) other relevant information regarding country conditions. 8 C.F.R. §§ 208.16(c)(3), 1208.16(c)(3). Country conditions are relevant in assessing withholding, *see Matter of G-A-,* 23 I.&N. Dec. 366, 368-72 (BIA 2002), even if they are insufficient, standing alone, to obtain withholding. *Yi-Tu Lian v. Ashcroft,* 379 F.3d 457 (7th Cir. 2004) [I.J. reversed because applicant may have viable C.A.T. claim for being smuggled to U.S. where I.J. ignored country conditions evidence that it is illegal for Chinese citizens to emigrate without permission of the Chinese

Government and that the Government is likely to find out applicant was deported]; *Mostafa v. Ashcroft,* 395 F.3d 622 (6th Cir. 2005) [BIA's failure to address country condition reports regarding Iran in C.A.T. claim as in *Matter. of G-A-* is reversible error]; *Zubeda v. Ashcroft,* 333 F.3d 463, 477-78 (3rd Cir. 2003) [Finding the BIA did not sufficiently consider the evidence in country reports and human rights reports].

Petitioner asserts that there is not only acquiescence by the Bangladesh Coalition Government but ample state and agent action in both deed and law that results in, condones or allows torture and killings that are illegal, immoral and without legal justification.

CONCLUSION

The Petition for a writ of certiorari should be granted. Petitioner has established that the Substantial Weight of the Evidence shows that he has met his statutory burden of proof that it is more likely than not that the feared persecution will happen if he is forced to return to Bangladesh under INA § 241(b)(3) re Past Persecution and a Well-Founded fear of future persecution on account of Political Opinion and Religion. Further, Petitioner has established that he was "persecuted" and that his Well-Founded Fear of Future Persecution rises to a level of persecution under INA § 241(b)(3) and applicable case law and regulations cited above. Further, the Decision below is not only contrary to the Substantial weight of the evidence but ignores and distorts the record and, contrary to law, inappropriately limits Petitioner's relief to that of the old Singled-Out theory. Petitioner has also met his statutory

burdens of proof under 8 U.S.C. § 2242, 8 C.F.R. §§ 208.16-208.18 re relief under the Convention Against Torture in that it is more likely than not that Petitioner will be persecuted as alleged above if forced to return to Bangladesh as well as showing that the Courts below failed to properly apply the law by making separate findings analyzing the Convention Against Torture issues, including credibility issues and the requirement that the Court consider *all* evidence of a well founded future fear.

Respectfully submitted,

NAZMUL HAQUE TALUKDER, Pro Se
470 East McNab Road, Apt. #6
Pompano Beach, FL 33060
954-946-2025

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 06-15184
Non-Argument Calendar

BIA No. A96-008-280
NAZMUL HAQUE TALUKDER,

Petitioners,

U.S. ATTORNEY GENERAL,

Respondents

Petition for Review of a Decision of the
Board of Immigration Appeals

(June 19, 2007)

Before: BIRCH, MARCUS and KRAVITCH, Circuit Judges.

PER CURIAM:

Nazmul Haque Talukder, a native and citizen of Bangladesh, petitions this court for review of the Board of Immigration Appeals' ("BIA") affirmance of the Immigration Judge's ("IJ") order of removal and denial of withholding of removal and relief under the United Nations Convention Against Torture ("CAT"). After a thorough review of the record, we deny the petition.

I. Background

After remaining in the United States following the expiration of his visa, Talukder received a notice to appear charging him with removability. He applied for asylum, withholding of removal, and relief under the CAT, alleging that he had been persecuted in Bangladesh based on his religion and political membership in the Aswami League and that the Bangladesh government engaged in a pattern and practice of persecution.[1]

Talukder began his membership in the Aswami League in 1979 or 1980 when he was in the tenth grade. He worked as a member, organizing things. When he went to college, his role in the Aswami League did not change at first, but he then began organizing and delivering speeches and he was chosen by a committee to be one of five vice presidents of the League. This role required "more advanced work;" he would talk to recruits at the college about the Aswami League and suggest that they tell their families the League was "good." He also organized meetings with students. Talukder continued in this role throughout college and while in graduate school. In 1984, he was acting president for three months.

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[1] The IJ determined that the asylum application was untimely. Talukder does not challenge this finding on appeal. Thus, it is deemed abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 (11th Cir. 2005). Moreover, although he alleged religion as a basis for relief in his asylum application, he did not raise it in his testimony before the IJ, nor did he address it before the BIA. Additionally, he does not argue in his petition that he was persecuted on account of his religion. Thus, the evidence presented regarding religious extremists is not relevant to his claims of persecution.

After he graduated in 1987, Talukder operated a store that sold computer parts. It is unclear whether he continued to be involved in the League. Following the elections in 2001, Aswami League members began to experience problems from members of the Bangladesh Nationalists Party ("BNP"), who threatened and killed Aswami leaders. Talukder believed that BNP members wanted to kill him.

On November 15, 2001, six or seven BNP members came looking for Talukder at his store and his home, demanding money. They broke furniture in the house and threatened Talukder. Although Talukder refused to turn over any money, nothing happened to him or his wife and the men did not return. Talukder and his family did, however, receive some threatening calls. In February 2002, Talukder left Bangladesh for the United States because he would not be able to relocate in Bangladesh. The other members of his family moved to "the villages." Talukder believed he would be threatened and killed if he returned due to his "high position in the party" and his refusal to give money.

During his testimony at the removal hearing, Talukder was unable to remember his wife's birthday or the date on which he divorced his first wife. He admitted that his asylum application did not mention the November incident, but he explained that he had included it in the attached statement. He also denied that he had requested authorization to travel to Bangladesh, but then admitted that he had requested permission after the government submitted the signed request form. According to the application, Talukder sought to return to Bangladesh to tend to some personal business and to see his family whom he had not seen in some time. In his testimony, however,

Talukder explained that he wanted to visit because his father was ill, but that he did not take the trip.

The record also includes numerous articles and documents confirming the violence and civil unrest in Bangladesh during the election process, the extortion of money from shopkeepers, and the use of torture and violence. The 2003 and 2004 State Department Country Reports acknowledged the violence against many Aswami League members and leaders who faced arrest, torture, and death.

The IJ denied relief, finding that Talukder was not credible, as his testimony had been vague and non-specific, he was unable to remember details of his divorce, and he gave limited detail on his role in the Aswami League.[2] Nevertheless, the IJ concluded that, even if Talukder was credible, he had not established eligibility for withholding of removal or relief under the CAT.

The BIA affirmed the IJ's decision and found that, even if Talukder was credible, he had not met his burden. Talukder now petitions this court for review.

II. Discussion

Where the BIA adopts the IJ's decision, we review the IJ's decision as adopted by the BIA. *Silva v. U.S. Att'y Gen.*, 448 F.3d 1229, 1235-36 (11th Cir. 2006); *Chacon-Botero v. U.S. Att'y Gen.*, 427 F.3d 954, 956 (11th Cir.

[2] The IJ thus made an explicit adverse credibility finding. *See Niftaliev v. U.S. Att'y Gen.*, No. 06-12708, manuscript op. at 11 (11th Cir. May 25, 2007); *Yang v. U.S. Att'y Gen.*, 418 F.3d 1198, 1201 (11th Cir. 2005).

2005). To the extent that the IJ's decision was based on a legal determination, we review the decision *de novo*. *Ruiz v. U.S. Att'y Gen.*, 440 F.3d 1247, 1254 (11th Cir. 2006); *D-Muhumed v. U.S. Att'y Gen.*, 388 F.3d 814, 817 (11th Cir. 2004). The IJ's factual determinations are reviewed under the substantial evidence test, and this court "must affirm the [IJ's] decision if it is supported by reasonable, substantial, and probative evidence on the record considered as a whole." *Al Najjar v. Ashcroft*, 257 F.3d 1262, 1283-84 (11th Cir. 2001) (quotation and internal marks omitted). Additionally, "[u]nder the substantial evidence test, we review the record evidence in the light most favorable to the agency's decision and draw all reasonable inferences in favor of that decision." *Ruiz*, 440 F.3d at 1255 (citing *Adefemi v. Ashcroft*, 386 F.3d 1022, 1027 (11th Cir. 2004) (*en banc*)). Thus, "a finding of fact will be reversed only when the record compels a reversal; the mere fact that the record may support a contrary conclusion is not enough to justify a reversal of the administrative findings." *Id.* (quotation omitted).

A. Withholding of Relief

Talukder argues that his testimony was credible, the IJ improperly ignored all his documentary evidence, and he established a pattern and practice of persecution.

The Attorney General must grant withholding of removal if the alien can show that his "life or freedom would be threatened in [that] country because of [his] race, religion, nationality, membership in a particular social group, or political opinion." *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1232 (11th Cir. 2005) (quoting 8 U.S.C. § 1231(b)(3)(A) (alteration omitted)). The burden of proof

is upon the alien to show either that he suffered past persecution, or that it is "more likely than not [he] will be persecuted or tortured upon being returned to [his] country." *Id.* (quotation omitted).[3]

An applicant for withholding of removal may satisfy this burden of proof by showing (a) "past persecution in [his] country based on a protected ground," *id.* (quotation omitted), (b) "that it is more likely than not that [he] would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion upon removal to that country," *id.* (quoting 8 C.F.R. § 208.16(b)(2)), or (c) a pattern or practice of persecution of a group similarly situated to him in which he is included or with which he is identified, 8 C.F.R. § 208.16(b)(2)(i), (ii).

If an alien's testimony is credible, it may be sufficient, without corroboration, to satisfy his burden of proof in establishing his eligibility for relief from removal. 8 C.F.R. §§ 208.13(a), 208.16(b); *Forgue v. U.S. Att'y Gen.*, 401 F.3d 1282, 1287 (11th Cir. 2005). "Conversely, an adverse credibility determination alone may be sufficient to support the denial of an asylum application." *Id.* (internal citation omitted). However, an adverse credibility determination does not alleviate the IJ's duty to consider other evidence produced by the asylum applicant. *D-Muhumed*, 388 F.3d at 818. *Chen v. U.S. Att'y Gen.*, 463 F.3d 1228, 1231 (11th Cir. 2006); *Forgue*, 401 F.3d at 1287. Indications of reliable testimony include consistency on direct

[3] The more-likely-than-not standard is more stringent than the well-founded fear standard in asylum cases. *Tan v. U.S. Att'y Gen.*, 446 F.3d 1369, 1375 (11th Cir. 2006).

examination, consistency with the written asylum application, and the absence of embellishments.[4] *See In re B-*, 21 I&N Dec. 66, 70 (BIA 1995).

We conclude that the IJ and BIA's adverse credibility finding is supported by substantial evidence. Talukder's testimony was vague and non-specific, and at times untruthful. For example, Talukder denied that he requested permission to travel to Bangladesh, but when confronted with the application, he admitted that he had filed it. Moreover, he stated he had a "high position" in the party, but testified that after his graduation, he had only been a member of the party and had not been active. In light of the inconsistencies, untruthful testimony, and vague assertions, the adverse credibility determination is supported by the record.

Nevertheless, even if we were to conclude that Talukder was credible, he still would not be entitled to relief. The single incident Talukder identified as persecution fail to rise to the level of persecution as defined by this court. *See Sepulveda,* 401 F.3d at 1231 (defining persecution as "an extreme concept, requiring more than a few isolated incidents of verbal harassment or intimidation, and . . . mere harassment does not amount to persecution." (internal quotations omitted)). Even considering the cumulative

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[4] Although the REAL ID Act changed the credibility standard for applications made on or after May 11, 2005, this change is not applicable to Talukder because his application was filed in 2004. Moreover, although this court has not directly addressed whether the inconsistency must go to the heart of the claim for those applications filed *before* the REAL ID Act, the standard is not relevant in this case because both the IJ and the BIA concluded that, even if the testimony was credible, Talukder had not met his burden to establish eligibility for relief.

effects of the incident and the calls, Talukder still has not met his burden.[5] *See Ruiz v. U.S. Att'y Gen.*, 479 F.3d 762 (11th Cir. 2007).

Moreover, Talukder has not shown that the alleged persecution was on account of his political opinion. In similar cases from Colombia, this court has held that the refusal to pay a war tax did not constitute persecution on account of a political opinion. *Sanchez v. U.S. Att'y Gen.*, 392 F.3d 434, 438 (11th Cir. 2004); *see also Rivera v. U.S. Att'y Gen.*, No. 06-10209, manuscript op. at 12-13 (11th Cir. May 23, 2007).

Finally, Talukder's claim of a pattern and practice of persecution is without merit. Although there has been violence against the Aswami League, it has been directed at leaders within the group. Talukder's own testimony established that he has not been an active member since his graduation in 1987. There is no evidence that similarly situated party members have experienced threats or harm. At most, the evidence suggests that there is widespread extortion of shop owners, but nothing connects the threats to a protected ground.

We note that the record demonstrated that the IJ considered all evidence. The fact that the IJ did not refer to the evidence does not demonstrate that he did not consider it given the fact that the IJ made detailed factual

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[5] Nor did Talukder establish that it is more likely than not that he would be persecuted on account of his political opinion if he returned to Bangladesh. Since Talukder completed graduate school in 1987, he has been only a member of the party, he has not been active, and he has not held any other leadership positions. Notably, Talukder's family continues to live in Bangladesh without incident despite the fact that his father and siblings were also members of the Aswami League.

findings to support his decision. *Tan v. U.S. Att'y Gen.*, 446 F.3d 1369, 1374 (11th Cir. 2006).

B. CAT Relief

Talukder argues that the IJ and BIA erred by concluding that he had not established eligibility for CAT relief and by failing to make specific findings about CAT eligibility.

To show entitlement to relief under the CAT, an applicant must establish that it is "more likely than not that he would be tortured if removed to the proposed country of removal." 8 C.F.R. § 208.16(c)(2). As discussed above, there was no evidence of past persecution and no reason that it was more likely than not that Talukder would face persecution if returned. In light of these findings, Talukder cannot show that it is more likely that he will face torture if returned to Bangladesh.

III. Conclusion

For the foregoing reasons, we DENY the petition.

PETITION DENIED

Judd Barton James
Hollywood Immigration Clinic, Inc.
4437 Hollywood Blvd. – Suite C
Hollywood FL 33021

June 19, 2007

Appeal Number: 06-15184-AA
Case Style: Nazmul Haque Talukder v. U.S. Attorney General

Agency Number: A96-008-280
CC: Judd Barton James
CC: David V. Bernal
CC: Anthony P. Nicastro
CC: Jared M. Slade
CC: Administrative File

United States Court of Appeals
for the Eleventh Circuit

No. 06-15184

BIA No. A96-008-280
NAZMUL HAQUE TALUKDER,

Petitioner,

versus
U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals

JUDGMENT

(AUG 16, 2007)

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: June 19, 2007
For the Court: Thomas K. Kahn, Clerk
By: Jackson, Jarvis

Stamp: ISSUED AS MANDATE
AUG 16 2007
U.S. COURT OF APPEALS
ATLANTA, GA.

APPENDIX B

U.S. Department of Justice
Executive Office for Immigration Review
Falls Church, Virginia 22041
Decision of the Board of Immigration Appeals

File: A96-008-280 – Miami Date: AUG 29 2006

In re: NAZMUL HAQUE TALUKDER

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Judd James, Esquire

ORDER:

PER CURIAM. We adopt and affirm the decision of the Immigration judge, which found the respondent removable; denied his applications for asylum and withholding of removal under the Immigration and Nationality Act as well as for protection under the United Nations Convention Against Torture; and ordered him removed from the United States to Bangladesh. *See Matter of Burbano,* 20 I&N Dec. 872, 874 (BIA 1994) (noting that adoption of affirmance of a decision of an Immigration Judge, in whole or in part, is "simply a statement that the Board's conclusion upon review of the record coincided with those the Immigration Judge articulated in his or her decision"). We also agree that the asylum application is time-barred, as not filed within one year after the respondent's arrival in this country, and that the respondent has not established changed circumstances materially affecting his asylum eligibility or extraordinary circumstances directly related to the failure to meet the one-year filing

deadline. See Section 208(a)(2)(D) of the Act, 8 U.S.C. § 1158(a)(2)(D); 8 C.F.R. § 1208.4(a)(4) and (5) (2006).

According the appeal is dismissed.

FOR THE BOARD

APPENDIX C

United States Department of Justice
U.S. Immigration Court
333 South Miami Avenue, Suite 700
Miami, Florida 33130

File No.: A96-008-280 July 14, 2005

In the Matter of	)	
Nazmul Haque Talukder	)	In Removal Proceedings
Respondent	)	

Charge: Section 212(a)(1)(B), overstay.

Applications: Section 208(a), asylum; Section 241(b)(3), withholding of removal; and without of removal under the Article 3 of the U.N. Convention against Torture.[1]

On Behalf of Respondent:
Judd James, Esquire

On Behalf of DHS:
Vera Hochberg, Esquire

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[1] In this case, the respondent filed an application for asylum on March 11, 2005. Here, the application is untimely. The respondent last arrived on March 8, 2002, and, was served with a Notice to Appear on MARCH 31, 2003. The explanation given contained in the respondent's application (*see* Exhibit 2), was, that he did not file his application because he married and he contends that there has been a change in circumstances since the time of his departure. Based on the evidence of country conditions submitted (*see* Exhibit 4), the Court finds there has been no change in country conditions which have been such to warrant the late filing of the application and the Court finds also that the fact that the respondent married does not establish an exceptional and/or extraordinary circumstances as well. The application then is considered as one for withholding of removal under Section 241(b)(3) of the Act and under Article 3 of the U.N. Convention against Torture.

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent in this case is a 41-year-old male, a native citizen of Bangladesh, who was issued a Notice to Appear (*see* Exhibit 1) on March 31, 2003.

The respondent first appeared before the undersigned on March 11, 2005 and was represented by counsel at that time. The respondent, through counsel, admitted the allegations contained on the Notice to Appear and conceded removability. The respondent did not immediately designate a country of removal and, accordingly, the Court designated Bangladesh for the respondent.

The respondent came with an application and 17 tabbed exhibits to file (*see* Exhibit 2). The court forwarded the application to the Department of State in accordance with the regulations (*see* Exhibit 3). The State Department did not respond to the Court's request for comment.

Subsequent to the filing of the application, the respondent submitted a "motion to withdraw I-130 petition for alien relative and to supplement the record." This document was filed on June 1, 2005 and the respondent stated that he would not be proceeding with the petition. Other evidence was submitted, including additional country information from the Government (*see* Exhibit 5). The respondent's divorce and subsequent marriage certificate in the United States were also submitted (*see* Exhibit 6), and the Government furnished a Form I-131, an application for a travel document completed by the respondent and approved in August of 2002 (*see* Exhibit 7).

The sole issue today is whether or not the respondent has established that it is more likely than not that his life or freedom would be threatened based on his race,

religion, nationality, membership in a particular social group, or because of his political opinion, or whether it is more likely than not that would be tortured by a government official or someone acting under their consent and/or acquiescence if he were to return to Bangladesh at this time.

TESTIMONY

At the outset the Court notes that the respondent's testimony was vague and not specific. Counsel continued to ask leading questions and the Court had to have the questions restated so that they were in the proper format. Additionally, the Court notes that many times the respondent gave vague responses and the respondent had to be admonished on a number of occasions to answer the question that was asked.

The respondent substantively testified that his mother and father were from Bangladesh, and that his father was a teacher and that his mother was a housewife.

The respondent contended that he and his family were members of the Awami League in Bangladesh. The respondent testified that he himself first became aware of it in 1979 to 1980 while he was a student. He testified that he was a student in the tenth grade. The respondent was asked why it was that he joined political process. He stated that his brother, father, and uncle were all affiliated with the Awami League. The respondent stated that he was a student in the tenth grade and that he had read books on the Awami League. He was asked what his position in the party was at that time and he testified, "I was just a member."

The respondent was asked what his father did and if he worked with him, The Court then noted that, the question was leading and that a foundation had not been stated. The respondent had just a few minutes before stated that he was a "member only" of the Awami League.

The respondent was then asked what happened after he graduated from high school. He testified that he went to the university. When asked what university he attended he testified it was the Dhaka University. He testified that he was studying history and was in an honors class. He testified that it was his ambition to become a "leader." When asked what he meant by this he replied, "my ambition was to become a member of parliament."

The respondent was asked if this participation in the Awami League changed when he went to the university. He first replied, "no, it did not change." The respondent was asked if when he was in the university if he participated in the political process to which he simply stated, "yes." The respondent was asked what his participation concerned. He replied that he was "organizing and delivering the speeches." The Court notes that the respondent did not state to whom he was delivering speeches. The respondent stated that he did this for almost one year.

The respondent was then asked if there was any change in his position. He testified, "I was selected as a vice president for the party." The respondent testified that this selection was made by a selection committee and, when asked if there was only one vice president, he testified in the negative stating that there were five.

The respondent was asked if his duties changed and he testified affirmatively stating, "I had to do more advanced work." The respondent was asked what this kind of

work was. The respondent answered in a very vague way that, "we used to tell people what was good about the Awami League." The respondent did not state to whom he did this, but, when asked what kind of responsibilities he had, he testified these were things that he did "inside the university."

The respondent was asked how long he was a vice president and he testified, "I was up until my masters degree in 1991." The respondent was asked what specific duties he has as a vice president. Again, he replied, "I was organizing meetings with students."

The respondent was asked if he had any other position within the party and he testified that he had a position as "acting president" during a three month period. The respondent was asked when this was and he testified that it was during October, November, and December 1984. The respondent was asked if he had any other duties as acting president that he has not told about. He testified that he used to visit people in the village to tell them about Awami League. He replied, "no, they gave no money."

The respondent was then asked what happened to his career after his graduation from graduate school. He testified that he was selling computer parts. The respondent was asked where this was and he testified that it was in Dhaka.

The respondent was asked several times if he had problems in Bangladesh. He replied, "yes, I had problems." The respondent was asked what kind of problems he had. The respondent began to answer in a narrative format and discuss a particular election. He was asked specifically three times what problems occurred. The respondent then replied, "they came to my house." The respondent was

then asked who this was again that came and he testified, "BNP student leaders." When asked when this was, he testified it was on November 15, 2001. The respondent was asked how many there were. He replied six to seven. The respondent was asked if he knew any of the people and he testified affirmatively stating that he knew one named Salaudd Lalto.

The respondent testified that these individuals came by in the evening at approximately 8:00 to 8:30 and the respondent was asked why they came. He testified that earlier that day they came to his store and, when asked why they came, he replied, "they wanted money." The respondent was asked what they wanted it for. He replied, "I really did not know what they would do with it." The respondent was asked what he thought they wanted it for and he replied, "to give the money to the party I think."

The respondent was asked if anything else happened. He testified that the furniture at his home was broken as well as his TV. The respondent was asked by the Court if any of these individuals said anything. He replied, "when I saw them I went out to the other side of the road." The respondent was asked if anything else happened and he replied, "they demanded 50 rupees from my wife." The respondent was asked if anything happened to his wife and he replied, "nothing happened." The respondent was asked if either he or his wife gave them money. He replied, "they threatened us and left." The respondent was asked if these individuals returned and he replied, "they did not return."

The respondent was asked if he had problems with the BNP again. He replied, "they were looking for me." The respondent was asked why this was. He replied, "they

broke things in my store." The respondent was asked on what day this occurred. He replied that it was also on November 15, 2001. The respondent was asked if he any other problems with the BNP. The respondent replied, "they kept looking for me. I was afraid. There were phone calls."

The respondent was asked on what date he left his country and he testified that it was on February 7, 2002. He testified that he came to the United States and arrived here on February 8, 2002. The respondent was asked if he left the United States since he arrived and he testified in the negative. He was asked if he had been to the United States previously and he testified in the negative as well.

The respondent was asked if there was a specific event or events that made him leave and come to the United States. He replied, "they threatened to kill me." The respondent was asked again if he remembered the date that he was threatened and he testified affirmatively stating it was November 15, 2001 and he reiterated that he had been threatened at his store, and his wife had been threatened and had a demand made for money.

The respondent was asked if that was the only time that his life was threatened to which he testified affirmatively. The respondent was asked if he attempted to move or relocate in his country to which he testified in negative. He was asked if his family remains in Bangladesh to which he testified affirmatively stating "they moved to the villages." The respondent was asked if he has any property left and he testified affirmatively.

The respondent was asked how he has supported himself here. He replied, "I am not getting any good work."

The respondent stated that he did receive jobs intermittently from friends.

The respondent was asked by the Court if there was anything else that happened to him that he had not told us about. The respondent testified affirmatively.

The respondent was asked what would happen if he returned to Bangladesh at this time. He testified that individuals call his parents and say, "if he comes back we will kill him."

The respondent was asked who he was living with and he testified that he lives in a little apartment that is rented. The respondent was asked if what happened to him occurred to anyone else in the Awami League membership, The respondent did not specifically answer the question, but replied, "they fled to different places." The respondent was asked if he knew of anyone personally and he gave the name of Samin Ousman who was an individual that was a member of parliament.

The respondent was asked why he thought that in November of 2001 he had problems like this to which he replied, "because I came to a high position in the party." An objection was posed to the question and the Court then asked the respondent when he graduated from school. The respondent testified that it was in 1987 and then stated that it was in the early 1990's.

The respondent was asked if he was a formal member of the Awami League after his graduation to which testified affirmatively. He was asked if he held any office in the Awami League after his graduation, and he then replied, "no, I was just a member of the Awami League."

The respondent was asked if his family was active from 1991 until he left the country. The respondent then stated that, because of the BNP coming to power and a collection the Awami League "went away."

The respondent was asked if he was forced to return to his country what he would be afraid of and from who. The respondent stated that he believes that the BNP leaders and workers would kill him. When asked why this was, he replied, "because I did not give them money and I was in a good position."

The respondent was asked if there were any other reasons that he would be afraid to return to Bangladesh and he testified that he thought he would be killed because of his political background.

On cross-examination, the Government asked the respondent a number of questions. The respondent was asked how many times he was married and he testified that he was married two times. The respondent was asked the name of his most recent wife and he testified it was Barbara Allan. He was asked her date of birth. After a long pause, approximately a minute, the respondent was unable to answer and the Court asked him to simply state that he did not know if he did not know. The respondent denied having paid money to this woman to marry him and he was asked if this was his first wife. The respondent did not answer the question specifically. Instead, he stated, "she is here in the U.S.A. married to someone else." The respondent was then asked if he had a child with his first wife and he testified affirmatively stating that she was 4 months old when they came here.

The respondent was asked if his wife and child came to the United States and he testified that he traveled with

them when they came. The respondent was asked if he divorced his wife to which he testified that it was in Bangladesh and, when asked when, there was a long pause and again the respondent was not able to answer the question.

The respondent was asked why if he divorced his wife she came with him to the United States. The respondent was asked this question again. The respondent initially stated that his daughter had been threatened.

The respondent was then asked if it was true that his family has told him not to return to Bangladesh to which he testified affirmatively. The respondent was then asked if he had applied for a travel document to return (*see* Exhibit 7) which the respondent initially denied by stating, "no." The respondent was then confronted with the document and then changed his answer to "yes."

The respondent was then asked if he had family in Texas and he testified that he had a maternal uncle there.

The respondent was asked a few questions on redirect examination and, when asked why he brought his wife and daughter to the United States, he testified that he believed that the BNP coalition government was a "terrorist government" and they decided to come. When asked why he believed that, he testified that he believed that they had a connection to the Taliban and that they were killing people by exploding bombs.

The respondent testified that his former wife and his daughter are living in Fort Lauderdale at this time.

STATEMENT OF THE LAW

An applicant for asylum and withholding of removal has the burden of proof to establish that he has been subject to past persecution, has a well-founded fear of persecution, or has established a clear probability of persecution within the meaning of Sections 208(a) and 241(b)(3) of the Immigration and Nationality Act. *See Matter of E-P-*, 21 I&N Dec. 860 (BIA 1997).

The regulations require that an application for asylum be filed within one year of one's arrival in the United States or that the respondent, if filing after that time, establish exceptional and/or extraordinary circumstances for failing to within the year deadline. Applications that are found to be untimely become applications for withholding of removal under Section 241(b)(3) of the Act and under Article 3 of the U.N. Convention against Torture if requested.

The Board of Immigration Appeals refers to an adverse credibility finding based upon inconsistencies and omissions regarding events central to an alien's asylum claim where a review of the record reveals that: (1) the discrepancies and omissions described by the Immigration Judge are actually present; (2) the discrepancies and omissions provide specific and cogent reasons to conclude that the alien has provided incredible testimony; and (3) a convincing explanation for the discrepancies and omissions has not been supplied by the alien. *See Matter of A-S-*, 21 I&N Dec. 1106 (BIA 1998).

An asylum applicant does not meet his or her burden of proof by general and meager testimony. *See Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

Aliens seeking protection under Article 3 of the U.N. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment must establish that is it more likely than not that he would be tortured in the country designated for removal by a government official or someone acting under their consent and/or acquiescence. *See Matter of J-E-*, 23 I&N Dec. 291 (BIA 2002). *See also* 8 C.F.R. Section 1208.18(a) (2001).

FINDINGS OF THE COURT

In this case, the Court finds that the respondent has not filed a timely application for asylum and, accordingly, has not established an exceptional and an extraordinary circumstance for failing to file within the deadline. The respondent has not filed his application within a "reasonable" length of time thereafter.

The Court also finds that the respondent's testimony today is incredible. The Court finds that the respondent's testimony not only is incredible, but is simply not truthful. The respondent contends that he fears returning to Bangladesh because of his involvement in the Awami League Party and the fact that his life was threatened. Yet, the respondent applies for and is granted a request for a travel document (*see* Exhibit 7) when the reason given on the application is that he has "been away from home very long time and has not seen his family. He also has personal business affairs to tend to." The respondent's statements made in the application for a travel document are admissible (*see* 8 C.F.R. Section 1240.7 (2001)) and go directly to the heart of the respondent's claim.

The court also notes that the respondent's testimony is, even if believed as credible, that his only threat to his

life and that of his wife's life was on November 15, 2001 because he nor she would give money to the "BNP people."

The respondent also stated that he had no official position within the party after his departure from graduate school. The respondent did not state with and specificity or detail what he did with the Awami League Party other than vague and general references to working with the students body and making speeches at palaces that were undetermined or defined. In sum, the respondent gave no specific information as to any of his purported duties within the party, and the Court finds that, even if the respondent's testimony were deemed credible, the respondent did not establish persecution in the past or a well-founded fear of persecution in the future based on any protected ground.

There is no evidence that the respondent was harmed in any way in Bangladesh. The respondent has failed to establish that anyone in Bangladesh is interested in him for any of the five statutory grounds for asylum.

Inasmuch as the respondent has failed to satisfy even the lowest burden of proof required for asylum, it follows that he has also failed to satisfy the clear probability standard of eligibility required for withholding of removal. *See INS v. Stevic,* 467 U.S. 407 (1984).

The evidence does not establish if he were now to return to Bangladesh it is more likely than not that he would be subject to persecution on account of one of the five grounds specified in Section 241(b)(3) of the Immigration and Nationality Act.

The respondent has also failed to establish that is it more likely than not that he would be tortured by a

government official or someone acting under their consent and/ or acquiescence as the respondent has not established through credible testimony or evidence that he would be tortured if he were to return at this time.

Accordingly, the following orders are hereby entered.

ORDER

IT IS HEREBY ORDERED that the respondent's application for asylum be and is pretermitted as untimely.

FURTHER ORDER

IT IS FURTHER ORDERED that the respondent's application for withholding of removal under Section 241(b)(3) of the Act and under Article 3 of the U.N. Convention against Torture be and are denied.

FURTHER ORDER

IT IS FURTHER ORDERED that the respondent be removed from the United States to Bangladesh on the charge as contained in the Notice to Appear.

/signature Rex J. Ford
U.S. Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding before JUDGE REX J. FORD, in the matter of:

NAZMUL HAQUE TALUKDER
A96-008-280
Miami, Florida

Is an accurate, verbatim transcript of the cassette tape as provided by the Executive Office for Immigration Review and that this is the original transcript thereof for the file of the Executive Office for Immigration Review.

/ signature
(Janet Woodward Carnahan,
Transcriber)
1324 Cape Street, Claire Road
Annapolis, Maryland 21401
(301) 261-1902

May 12, 2006
(Completion Date)

APPENDIX D

U.S. Department of Justice
Immigration and Naturalization Service Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No. A096-008280

In Matter of:
Respondent Nazmul Haque TALUKDER currently residing at: 470 MCNAB ROAD APT. #6, POMPANO BEACH, FLORIDA 33060 954-946-2025

[ ] 1. You are an arriving alien.

[ ] 2. You are an alien present in the United States who has not been admitted or paroled.

[X] 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

1) You are not a citizen or national of the United States;

2) You are a native of BANGLADESH and a citizen of BANGLADESH;

3) You were admitted to the United States at Miami, Florida on or about February 8, 2002 as a nonimmigrant visitor for pleasure (B-2) with authorization to remain in the United States for a temporary period not to exceed August 7, 2002;

4) You remained in the United States beyond August 7, 2002, without authorization from the Immigration and Naturalization Service.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

> Section 237(a)(1)(B) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you have remained in the United States for a time longer than permitted, in violation of this Act or any other law of the United States.

[ ] This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

[ ] Section 235(b)(1) order was vacated pursuant to:

[ ] 8 C.F.R. 208.30(f)(2)] 8 C.F.R. 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: *"TO BE CALENDARED AT A LATER DATE"* on *a date to be set* at *a time to be set* to show why you should not be removed from the United States based on the charge(s) set forth above.

/Kenneth Powers, IRP Director
(Signature and Title of Issuing Officer)

Date: March 31, 2003 MIAMI, FL

See reverse for important information

Exhibit 1
Date: 03/11/05

NOTICE OF RIGHTS

You have been arrested because immigration officers believe that you are illegally in the United States. You

have the right to a hearing before the Immigration Court to determine whether you may remain in the United States. If you request a hearing, you may be detained in custody or you may be eligible to be released on bond, until your hearing date. In the alternative, you may request to return to your country as soon as possible, without a hearing.

You have the right to contact an attorney or other legal representative to represent you at your hearing, or to answer any questions regarding your legal rights in the United States. Upon your request, the officer who gave you this notice will provide you with a list of legal organizations that may represent you for free or for a small fee. You have the right to communicate with the consular or diplomatic officers from your country. You may use a telephone to call a lawyer, other legal representative, or consular officer at any time prior to your departure from the United States.

REQUEST FOR DISPOSITION

[X] I request a hearing before the Immigration Court to determine whether or not I may remain in the United States.

[ ] I believe I face harm if I return to my country. My case will be referred to the Immigration Court for a hearing.

[ ] I admit that I am in the United States illegally, and I believe I do not face harm if I return to my country. I give up my right to a hearing before the Immigration Court. I wish to return to my country as soon as arrangements can be made to effect my departure. I understand that I may be held in detention until my departure.

/Signature Illegible Date: 03/31/2003

CERTIFICATION OF SERVICES

[X] Notice read by subject

[X] Notice read to subject by *FRANK HERNANDEZ,* in the *ENGLISH* LANGUAGE.

/Frank Hernandez
Name of Service Officer
March 31, 2003 12:00 PM.
Date and Time of Service

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that pending a final determination by the immigration judge in your case, and in the event you are ordered removed from the United States, until you are taken into custody for removal, you shall be:

[ ] detained in the custody of this Service.

[X] released under bond in the amount of *$7,500.00.*

[ ] released on your own recognizance.

[ ] You may request a review of this determination by an immigration judge.

[ ] You may not request a review of this determination by an immigration judge because the Immigration and Nationality Act prohibits your release from custody.

Kenneth Powers, IRP Director
(Signature of authorized officer)
Miami, Florida
Date: 03/31/2007

[ ] I do [X] do not request a re determination of this custody decision by an immigration judge.

[X] I acknowledge receipt of this notification.

_____

APPENDIX E

Stamp: 06-15184A

NEW CASE FILING

Court of Appeals for the Eleventh Circuit

Stamp: FILED

Nazmul Haque Talukder

Petitioner

v.

Alberto Gonzales,
Attorney General,

Respondent.

U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
SEP 27 2006
THOMAS K. KAHN
CLERK

Petition for Review

On Appeal from the Board of Immigration Appeals

Judd B. James, Esq.
Hollywood Immigration Clinic, Inc.
4437 Hollywood Blvd., Suite C
Hollywood, FL 33021
Tel: 954-894-6700
Fax: 954-893-0927

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Nazmul Haque Talukder, Petitioner v. Alberto Gonzales, Attorney General, Respondent	)	Petition for Review Agency Case No. A96-008-280

Petition for Review

The Petitioner, Nazmul Haque Talukder, hereby petitions this Court for review of the attached final order of the Board of Immigration Appeals entered against him on 08-29-2006. The validity of this order has not been upheld by any court.

Respectfully submitted,

Judd B. James, Esq.
Hollywood Immigration Clinic, Inc.
4437 Hollywood Blvd., Suite C
Hollywood, FL 33021
Telephone: (954) 894-6700
Facsimile: (954) 893-0927

By: _____
Judd B. James, ESQ.
Illinois Bar No. 06181629

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
Appearance of Counsel Form
TO ENTER AN APPEARANCE, PLEASE COMPLETE AND RETURN THIS FORM WITHIN 14 DAYS. YOU MAY NOT RECEIVE FURTHER NOTICE OF PROCEEDINGS ON APPEAL UNLESS THIS FORM IS TIMELY FILED.

Please Type or Print No. _____

Nazmul Haque Talukder vs. Alberto Gonzales, Attorney General, Respondent

The Clerk will enter my appearance for these named parties; Nazmul Haque Talukder

In this court these parties are
[ ] appellant(s)
[X] petitioner(s)
[ ] intervenor(s)
[ ] appellee(s)
[ ] respondent(s)
[ ] amicus curiae

[ ] The following related or similar cases are pending on the docket of this court: None

[ ] This appeal is entitled to preference for the following reasons: N/A

Signature: /s Judd B. James
Social Sec. No.: XXX-XX-XXXX
Name (Type or Print): Judd B. James

Firm/Govt. Office: Hollywood Immigration Clinic, Inc.
Phone: 954-894-6700
Street Address: 4437 Hollywood Blvd., Suite C
City: Hollywood State: FL Zip: 33021

To enter an appearance you must be an 11th Circuit bar member, seek admission (form below), or be exempt under 11th Cir. R. 46-1(a) (see reverse)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Petition for Review were served via the U.S. Postal Service, Express Mail, Certified, Return Receipt requested on ALBERTO GONZALES, ATTORNEY GENERAL, Department of Justice, Room B-103, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001 and Ms. Linda M. Swacina, CIS DISTRICT DIRECTOR, DIVISION VI, 7880 Biscayne Boulevard, 11th Floor, Miami, Florida 33138 this 26th day of September, 2006.

By: _____
Judd B. James, Esq.

APPENDIX F

U.S. Department of Justice Executive Office for Immigration Review Board of Immigration Appeals	OMB #1105-0065 Notice of Appeal from a Decision of an Immigration Judge

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For Official use Only
Stamp: RECEIVED
DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW
2005 JUL 41 P 1:35
BOARD OF
IMMIGRATION APPEALS
OFFICE OF THE CLERK

1. List Name(s) and "A" Number(s) of all Applicant(s)/ Respondent(s):

Nazmul Haque Talukder A96-008-280

! WARNING: Names and "A" Numbers of everyone appealing the Immigration Judge's decision must be written in item #1.

---

2. I am the [X] Respondent/Applicant [ ] INS

3. I am [ ] DETAINED [X] NOT DETAINED.

4. My last hearing was at 333 South Miami Avenue, Room 615, Miami, FL 33130.

5. What decision are you appealing?

[X] I am filing an appeal from the Immigration Judge's decision in merits proceedings (example: removal, deportation, exclusion, asylum, etc.) dated 06/14/2005.

[ ] I am filing an appeal from the Immigration Judge's decision in bond proceedings dated _____.

[ ] I am filing an appeal from the Immigration Judge's decision denying a motion to reopen or a motion to reconsider dated _____.

6. State in detail the reason(s) for this appeal. Please refer to the Instructions at part F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary.

1) The Immigration Judge erred in finding that the Respondent, had not satisfied his statutory burden of proof under *INS v. Cardoza-Fonseca,* 480 U.S. 421 (1987) and *Matter of Mogharrabi,* 19 I&N Dec. 439 (BIA 1987), *INS v. Stevic,* 467 U.S. 407 (1984), *Matter of Chen,* 20 I&N Dec. 16 (BIA 1989) and INA Section 241(b)(3) re Withholding of Removal in establishing that it would be more likely than not that he would be persecuted on account of his Political Opinion if forced to return to Bangladesh as respondent's testimony was specific, detailed and credible and provided a plausible and reasonable basis for his claimed past persecution as well as for the well-founded fear of future persecution claimed on account of his political opinion in Bangladesh (See also *Matter of S-P-,* 21 I&N Dec. 486 (BIA 1996), and *Matter of S-M-J-,* 21 I&N Dec. 724 (BIA 1997),

2) The Immigration Judge (hereinafter I.J.) erred in finding that Respondent had not met his statutory burden of proof under *INS v. Cardoza-Fonseca,* 480 U.S. 421 (1987), *Matter of Mogharrabi,* 19 I.&N. Dec. 439 (BIA), *INS v Stevie,* 467 U.S. 407 (1984); *Matter of Chen,* 20 I.&N. Dec. 16 (BIA 1989) and INA Section 241(b)(3) in categorizing *all* of Respondent's documentary evidence, as well as testimony, as pertaining only to general conditions

of lawlessness and random crimes, ruling that Respondent failed to establish eligibility for relief on account of political opinion, the IJ finding that human rights violation are not basis for relief, the country conditions established by the record not referring specifically to the Respondent and that the documentary evidence failed to corroborate Respondent's testimony holding that Respondent failed to show that it was more likely than not he would be persecuted if forced to return to Bangladesh. See also *Matter of S-P-*, 21 I.&N. Dec. 486 (BIA 1996) and *Matter of S-M-J-*, 21 I.&N. Dec. 724 (BIA 1997) and *Matter of Chen*, 20 I.&N. Dec. 16 (BIA 1989).

3) The I.J. erred in finding that Respondent had not met his statutory burden of proof pursuant to INA Section 241(b)(3)(a), *INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987), *Matter of Mogharrabi*, 19 I.&N. Dec. 439 (BIA); *INS v Stevic*, 467 U.S. 407 (1984) and *Matter of Acosta*, 19 I.&N. Dec. 211 (BIA 1985), abusing discretion and misapplying the law by finding nothing in the record to provide a reasonable basis for Respondent's well-founded fear of persecution on account of political opinion in Bangladesh and that was more likely than not that Respondent would be killed or tortured if forced to return to Bangladesh, the I.J. improperly requiring that Respondent be "Singled Out" for persecution on account of Political Opinion and the other protected grounds as well as suffer personal physical harm, ignoring the long and terrible history of the above persecution in Bangladesh, the objective evidence in the record, and Respondent's testimony and claims of relief pursuant to the Pattern and Practice of Persecution on Account of the above protected ground in Bangladesh against Similarly Situated Persons pursuant to 8 C.F.R. Sections 208.16(b)(3) and *Makonnen v. INS*, 44 F.3d 1378

(8th Cir. 1995) and *Matter of Chen,* 20 I.&N. Dec. 16 (BIA 1989).

4) The I.J. erred in finding that Respondent not to be credible on the basis of minor discrepancies in the record not relevant to the issue of Respondent's well-founded fear of persecution see, e.g., *Plateros-Cortez v. INS,* 804 F.2d 1127 (9th Cir. 1986), the Immigration Judge demonstrating bias and predisposition to discredit the Respondent not supported by the substantial weight of the evidence in the record, *Matter of S-A-,* 22 I.&N. Dec. 1238 (BIA 2000) and *Akinnade v. INS,* 196 F.3d 951 (9th Cir. 1999) and *INS v Stevic,* 467 U.S. 407 (1984), in that Respondent met his statutory burden of proof pursuant to INA Section 241(b)(3) in that it is more likely than not that he will be persecuted on account of his Political Opinion if forced to return to Bangladesh.

5) In the alternative, the I.J. misapplied the law and abused discretion by finding Respondent had not met his burden of proof pursuant to the Convention Against Torture, 8 CFR Section 208.16-208 in finding that Respondent failed to establish that there were acts that rose to the level of persecution and that there was no showing that the Bangladesh Government and/or its agents consented to the acts of torture alleged or, knowing about them, acquiesced in same on account of Respondent's Political Opinion. See *INS v Stevic,* 467 U.S. 407 (1984) and *Matter of C-Y-Z-,* 21 I.&N. Dec. 915, 919 (BIA 1997) and 8 CFR Section 208.13(b)(1)(i).

!WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any

statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals?

[ ] Yes [X] No

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal?

[X] Yes [ ] No

!WARNING: If you mark "Yes" in term #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

9. Signature: Judd JAMES, Esq.

Date 7-19-99

10. Mailing address of Applicant(s)/ Respondent(s)	11. Mailing address of Attorney or Representative
Nazmul Haque Talukder 470 East McNab Road, Apt. #6 Pompano Bch, FL 33060 954-946-2025	Judd B. James 4437 Hollywood Blvd., Suite C Hollywood, FL 33021 954-894-6700

NOTE: You must notify the Board within five (5) working days if you move to a new address. You must use an alien's Change of Address Form (Form EOIR-33/BIA)

NOTE: If an attorney or representative signs this appeal for you, he or she must file with this appeal, a Notice of

Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals. (Form EOIR-27).

12. PROOF OF SERVICE (You Must Complete This)

I Judd B. James mailed or delivered a copy of this Notice of Appeal on 07/13/2005 to Office of the CIS Chief Counsel, Vera Hochberg, A.D.C. at 333 South Miami Avenue, Room 200, Miami, FL 33130.

Signature: Judd James, Esq.

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the District Counsel for the INS

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal will be rejected or dismissed.

HAVE YOU?

- _ Read all of the General Instructions
- _ Provided all of the requested information
- _ Completed this form in English
- _ Provided a certified English translation for all non-English attachments
- _ Signed the form
- _ Served a copy of this form and all attachments on the opposing party
- _ Completed and signed the Certificate of Service
- _ Attached the required fee or fee waiver request